



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

July 13, 2012

Nancy Rose
Forest Supervisor
Cibola National Forest
2113 Osuna Road, NE
Albuquerque, NM 87113

Dear Ms. Rose:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations (CEQ) for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its reviews of the Draft Environmental Impact Statement (DEIS) for the La Jara Mesa Mine project located on National Forest Service land, the Mt. Taylor Ranger District, Cibola National Forest, northeast of the town of Grants in Cibola County, New Mexico. The DEIS evaluates the potential impacts of implementing the proposed project. The U.S. Forest Service (USFS) is the lead Federal agency responsible for NEPA compliance for this proposed action.

EPA rates the DEIS as "EC-2," i.e., EPA has "**Environmental Concerns and Request Additional Information in the Final EIS (FEIS)**". The EPA's Rating System Criteria can be found here: <http://www.epa.gov/oecaerth/nepa/comments/ratings.html>. Our enclosed detail comments are offered to complement and to more fully insure compliance with the requirements of NEPA and the Council on Environmental Quality (CEQ) regulations. EPA's comments are offered on, mitigation, air quality, and environmental justice and tribal concerns. EPA asks that these comments be addressed and responded to in the FEIS.

Our classification will be published on the EPA website, www.epa.gov, according to our responsibility under Section 309 of the Clean Air Act to inform the public of our views on proposed Federal actions. If you have any questions, please contact Michael Jansky of my staff at (214) 665-7451 or by e-mail at jansky.michael@epa.gov for assistance.

EPA appreciates the opportunity to review the DEIS. Please send our office two copies of the FEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004. You may now electronically file your EIS using our *e-NEPA Electronic Filing Pilot* by linking to EPA's web site at <http://www.epa.gov/compliance/nepa/submiteis/index.html>.

Sincerely yours,

A handwritten signature in black ink, reading "Debra A. Griffin". The signature is fluid and cursive, with the first name "Debra" being the most prominent part.

Debra A. Griffin
Associate Director
Compliance Assurance
and Enforcement Division

Enclosure

**DETAILED COMMENTS
ON THE
UNITED STATES FOREST SERVICE (USFS)
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)
FOR THE PROPOSED
LA JARA MESA MINE PROJECT
IN THE
MT. TAYLOR RANGER DISTRICT
CIBOLA NATIONAL FOREST
CIBOLA COUNTY, NEW MEXICO**

BACKGROUND

On April 15, 2008, Laramide Resources, Inc, the applicant, submitted a plan of operation (plan) for mining uranium at the La Jara Mesa mining claims. The plan includes development, operation, and mine reclamation for an overall time period of up to 20 years. The mine claims are located on National Forest System land under the jurisdiction of the USFS. This area is within the Mt. Taylor Ranger District, Cibola National Forest, northeast of the town of Grants in Cibola County, New Mexico. Disturbance on the 16.4 acre site includes improvements to existing roads, construction of a new water pipeline and electric distribution line in the road right-of-way, and construction of an escape raise/air vent at the top of La Jara Mesa, all of which are directly associated with the applicant's mine plan.

The DEIS evaluates the potential impacts of implementing the proposed plan which is an underground room and pillar mine. The Federal action associated with the EIS is the USFS's decision on whether or not to approve the applicant's plan or decisions on which, if any, mitigation measures will be required to protect other non-mineral surface resources consistent with the forest plan, Federal regulations, and other applicable laws. The applicant has a right to develop and remove the resources as set forth by the General Mining Law of 1872 as amended. These laws provide that the public has a statutory right to conduct prospecting, exploration, and development activities (1872 Mining Law and 1897 Organic Act), provided they are reasonably incident to mining and comply with other Federal laws.

The Forest Service has the responsibility to protect surface resources. Mining regulations state the operations shall be conducted so as, where feasible, to minimize adverse environmental effects on the National Forest System surface resources (36 CFR 228.8) provided such regulations or reasonable incidental uses (1955 Multiple Use Mining Act and case law).

ENVIRONMENTAL JUSTICE AND TRIBAL CONCERNS

Review of the DEIS indicates many steps have and will continue to be taken to lessen the potential environmental impact of this project. The mine will be located ten (10) miles from Grants, New Mexico in an area of Cibola County that has a lower Native American population

than does the rest of the county. The other part of Cibola County has a 40% Native American population. The demographics chart (Table 37) reflecting the percentages of minority residents in Census Tract 9745 and the Census Tracts 9744, 9742.01 and 9742.02 is useful; however, it would be helpful for the percentages of the Indian residents, as well as other minorities to also be provided rather than the raw numbers. Only the percentage of Hispanics and the percentage of total minorities are provided.

- The DEIS should identify which tribes in addition to Navajo Nation members that actually live in the area. EPA asks that this information be included in the Final EIS.

In the Heritage Resources section, the DEIS states that government-to-government consultation took place with interested parties about possible Traditional Cultural Property (TCP) that could be affected by this project. The DEIS states that the tribes consulted are still engaged in traditional cultural and religious activities on the mountain. All the tribes stated their opposition to the development of the La Jara Mesa mine (p. 156) during the consultation process. The consensus of the tribes regarding constructing and operating a mine on Mt. Taylor was that they all were opposed to it on both the basis of cultural and environmental concerns.

- As documented in the DEIS, it is noted that tribal concerns in this regard are irreconcilable with the mining company's intended purpose and the Forest Service's requirement to allow mining efforts, within certain environmental constraints. To further address this concern, the FEIS should provide plans for further discussions.

The DEIS states in the "Environmental Justice" section, under "Cumulative Effects" of "Affected Environment and Environmental Consequences" (Chapter 3, page 145) the following:

The cumulative effects on Mt. Taylor itself as an eligible TCP include any projects proposed since the determination of eligibility, and include all of the designated portions of Mt. Taylor. To the extent that this project impacts an eligible TCP based on the beliefs of Native Americans, this and other proposed mine projects on Mt. Taylor would potentially conflict with those beliefs. This and other projects having an impact on the eligible TCP would have an indirect effect on those whose beliefs and practices rely on Mt. Taylor as a TCP. Such effects would disproportionately affect tribal members holding those beliefs and using the mountain for such purposes. Additional mine proposals and their impacts are reasonably foreseeable but not disproportionate, for the reasons discussed above, except for tribal members who believe that the project conflicts with their beliefs related to Mt. Taylor. (See page 145)

- This last section is confusing and should be clarified in the FEIS because the last two sentences seem to contradict the rest of the paragraph. Does the DEIS mean to say the project would not contribute to cumulative impacts on minority or low income populations because the low income and minority populations in the area are not disproportionate to the other populations in the county or State as a whole. Please clarify in the FEIS.

- The DEIS has no discussion with regard to reconciling the needs of the tribes and with the need for the uranium to be mined. Details about possible mitigation, compromise or other measures to address the concerns of the tribes should be included in this section or in the appendix on mitigation. EPA asks that the USFS include these details in the Final EIS.
- Discussion should be presented in the FEIS on the American Indian Religious Freedom Act of 1978, Public Law 95-341; 42 USC 1996, which establishes a national policy to protect the right of tribes and other indigenous groups to exercise their traditional religions. This law and its implications in contrast with the Mining Law of 1872 should be discussed in the Final EIS.

AIR QUALITY

In general, any demolition, construction, rehabilitation, repair, dredging or filling activities have the potential to emit air pollutants. EPA recommends best management practices be used and implemented by the applicant to minimize the impact of air pollutants. All construction and waste disposal activities should be conducted in accordance with applicable local, state and Federal statutes and regulations. EPA also encourages the use of clean, lower-emissions equipment and technologies to reduce air pollution. EPA's final Highway Diesel and Nonroad Diesel Rules also mandate the use of lower-sulfur fuels in nonroad and marine diesel engines beginning in 2007. Discussion on this matter should be included in the FEIS.

